

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

PAUL LOUTZENHISER,

Plaintiff,

No. CIV S-04-1937 LKK PAN P

vs.

ALVARO C. TRAQUINA, et al.,

Defendants.

ORDER

_____/

Plaintiff, a state prisoner prosecuting a civil rights action. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

On August 22, 2005, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within ten days. Defendant Franklin and plaintiff have filed objections to the findings and recommendations. Defendant Franklin filed a reply.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-304, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and by

1 proper analysis.

2 Accordingly, IT IS HEREBY ORDERED that:

3 1. The findings and recommendations filed August 22, 2005 are adopted in full;

4 2. Defendant Franklin's December 20, 2004, motion to dismiss is denied;

5 3. Plaintiff's February 1, 2005, motion for summary judgment is denied;

6 4. The May 23, 2005, cross-motion for summary judgment of defendants

7 Traquina, Webster and Cervantes is denied, except as to plaintiff's due process claims which are
8 dismissed without prejudice for failure to exhaust administrative remedies; and

9 5. Defendant Franklin's May 25, 2005, cross-motion for summary judgment is
10 denied.

11 DATED: September 16, 2005.

12 /s/Lawrence K. Karlton
13 LAWRENCE K. KARLTON
14 SENIOR JUDGE
15 UNITED STATES DISTRICT COURT
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